



# Charter Government and Transition

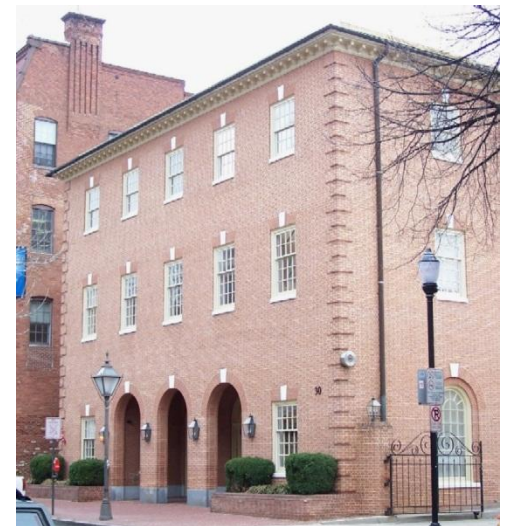
What it means to you and to Frederick County



Office of the Frederick  
County Manager

# LOCAL GOVERNMENT – where does the power come from?

- LOCAL GOVERNMENTS ARE CONSIDERED CREATURES OF THE STATE WHICH GRANTS ALL LOCAL AUTHORITY & POWER



# Home Rule History

## 1. Code Home Rule Question

Date of Election – November 5, 1968

Regular Presidential General Election

|            |         |        |
|------------|---------|--------|
| Vote Cast: | for     | 3,706  |
|            | AGAINST | 11,451 |

Voter Turnout – 81%

## 2. Creation of a Charter Board (*original procedure*)

Date of Election – November 3, 1970

Regular Gubernatorial General Election

|            |         |       |
|------------|---------|-------|
| Vote Cast: | for     | 5,496 |
|            | AGAINST | 6,722 |

Voter Turnout – 74%

## 3. Charter Adoption Question (*alternate procedure*)

Date of Election – November 5, 1991

Special Election

|            |         |        |
|------------|---------|--------|
| Vote Cast: | for     | 4,039  |
|            | AGAINST | 13,419 |

Voter Turnout – 28%

# Home Rule History

## 4. Code Home Rule Question

Date of Election – November 5, 2002

Regular Gubernatorial General Election

|            |         |        |
|------------|---------|--------|
| Vote Cast: | for     | 18,464 |
|            | AGAINST | 34,301 |

Voter Turnout – 57%

## 5. Charter Adoption Question (*alternate procedure*)

Date of Election – November 6, 2012

Regular Presidential General Election

|            |         |        |
|------------|---------|--------|
| Vote Cast: | FOR     | 62,469 |
|            | Against | 37,368 |

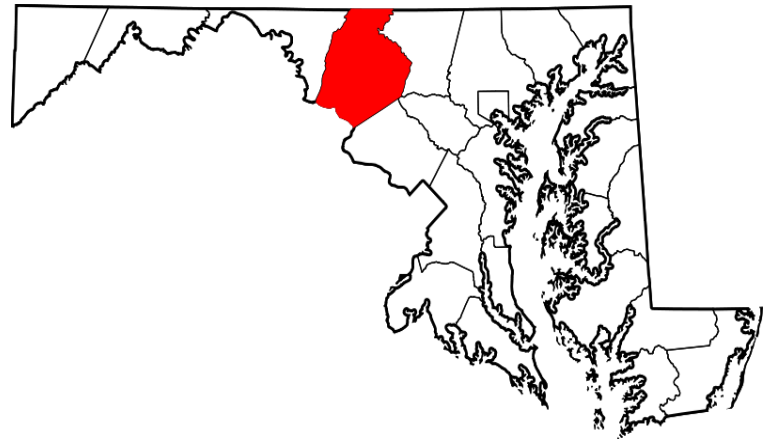
Voter Turnout – 79%

# LEVELS & BRANCHES OF GOVERNMENT

|  | FEDERAL       | STATE            | LOCAL  |
|--|---------------|------------------|--|
| <b>EXECUTIVE<br/>BRANCH</b><br>(Enforces &<br>Implements the<br>Law) | President     | Governor         | Board of County<br>Commissioners                       |
| <b>LEGISLATIVE<br/>BRANCH</b><br>(Writes the Law)                    | Congress      | General Assembly | Board of County<br>Commissioners                       |
| <b>JUDICIAL<br/>BRANCH</b><br>(Interprets the Law)                   | Supreme Court | Court of Appeals | Circuit and District<br>Courts (State<br>Administered) |

# **LOCAL GOVERNMENT – what does the State allow?**

- **IN MARYLAND THERE ARE TWO LEVELS OF LOCAL GOVERNMENT WITH THREE FORMS**
  - **MUNICIPALITIES (Charter)**
  - **COUNTIES (Commissioner, Code, or Charter)**



# Maryland Forms of Government

## Code Home Rule vs. Commissioner vs. Charter

| ISSUE                   | CODE HOME RULE   | COMMISSIONER  | CHARTER  |
|-------------------------|--|---|--|
| Structure of Government | Commissioners determine structure through local enactments. County Commissioner title retained. First authorized in 1966 – Article XI-F of the Maryland Constitution.  | Specified in State law. General Assembly may determine through legislation. First authorized in 1827.   | Determined by the charter. Six of eight charter counties have an elected executive and elected county council. Remaining two counties have elected council that retains both executive and legislative power. First authorized in 1915 by Article XI-A of the Maryland Constitution. |
| Public Local Laws       | Commissioners can enact, amend, or repeal local laws on a wide array of matters. Most powers granted Charter counties also granted to Code counties. General Assembly may still enact public local laws covering an entire class of Code counties, but not for one single Code county See Article 25B. | Commissioner authority limited. General Assembly has full power to legislate for County. Commissioners may enact ordinances where authorized by Express Powers enabling legislation, or specific public local laws. See Article 25. | Broad legislative power vested in county council – General Assembly may enact laws for a single charter county in a subject not contained in their express powers outlined under Article 25A.  |
| Bonding Authority       | Commissioners authorize. No statutory maximum, but General Assembly may establish a limit. Subject to local referendum if petitioned by 10% of the voters.   | General Assembly must specifically authorize. No statutory limitation.  | Charter must authorize issuance of general obligation debt and controls whether or not debt needs to go to public referendum. Debt may not exceed 15% of assessable base. See Article 25A, Section 5(p).   |
| Tax caps                | Commissioners may not enact. General Assembly may, however, enact a tax cap for a  | General Assembly may establish.   | General Assembly establishes – except Baltimore and Montgomery.  |

# Maryland Forms of Government

| ISSUE  | CODE HOME RULE  | COMMISSIONER  | CHARTER   |
|--|---|---|---|
|  | Code county.  |   |   |
| Referenda  | All legislation subject to referendum if petition is filed with Board of Election Supervisors by 10% of registered voters.  | Public local laws subject to referendum if petitioned to Secretary of State by 10% of registered voters. General Assembly may enact public local laws contingent on approval at referendum. | Article 25A, Section 8 – all legislation subject to referendum upon petition of county voters or as per county charter. |
| Enact new taxes, license or franchise fees                   | General Assembly authorization required. Cannot create new taxes, license or franchise fees not authorized at time County gets Code Home Rule status.   | General Assembly authorization required.  | General Assembly authorizes except for Baltimore and Montgomery have full taxing authority with some exceptions.        |
| Tax credits  | General Assembly authorization required.  | General Assembly authorization required.  | General Assembly authorization required – except Baltimore and Montgomery.  |
| Impact fees  | Commissioners may establish.  | General Assembly authorization required. See Article 25.  | General Assembly authorization required – except Baltimore and Montgomery   |
| Planning and Zoning Authority                                | Subject to State law.   | Subject to State law. See Article 66B.  | Article 25A, Section 5(X) – and as per State law.   |
| Declare/levy civil infractions/fines for enforcement of laws | Commissioners may enact subject to limitations  | General Assembly must specifically authorize.   | Authorized under Article 25A.   |
| Excise Taxes   | Commissioners may enact a school construction excise tax (up to \$750 per lot) if not already levying a development impact fee. May also enact an agricultural excise tax (up to \$750 per lot) for purchase of TDRs if county is not levying a development impact fee. | General Assembly must authorize.  | General Assembly authorization required – except Baltimore and Montgomery   |



# Maryland Forms of Government

| ISSUE  | CODE HOME RULE   | COMMISSIONER  | CHARTER                |
|--|--|---|------------------------|
| Formality of legislative process/procedures  | Formal. Annotated Code specifies precise format, maximum number of legislative sessions, public notification requirements; provisions for emergency bills, effective dates, publications of proposed bills, etc. | Informal - no provisions covering legislative days, emergency bills, publication of proposed bills.                       | As per county charter. |
| Number of Commissioners/Council members, method of election, alternative form of board composition | Commissioners may determine through enactment of public local laws.  | General Assembly determines.  | As per county charter. |
| Compensation   | Commissioners may enact recommendation of a salary commission established by ordinance.  | General Assembly sets compensation. Informal salary board may be established to make recommendations to General Assembly. | As per county charter. |
| Ability to establish separate police and corrections departments                                   | Corrections Department or warden may be done through enactment by Commissioners of a public local law. Police department still requires General Assembly approval.   | Required General Assembly approval. See Article 25, Section 3(q).   | As per county charter. |

# County Forms of Government

| County           | Population | Form         |
|------------------|------------|--------------|
| Montgomery       | 971,777    | Charter      |
| Prince George's  | 863,420    | Charter      |
| Baltimore County | 805,029    | Charter      |
| Baltimore City   | 620,961    | Charter      |
| Anne Arundel     | 537,656    | Charter      |
| Howard           | 287,085    | Charter      |
| Harford          | 244,826    | Charter      |
| Frederick        | 233,385    | Charter      |
| Carroll          | 167,134    | Commissioner |
| Washington       | 147,430    | Commissioner |
| Charles          | 146,551    | Code         |
| St. Mary's       | 105,151    | Commissioner |

# County Forms of Government

| County       | Population | Form         |
|--------------|------------|--------------|
| Cecil        | 101,108    | Charter      |
| Wicomico     | 98,733     | Charter      |
| Calvert      | 88,737     | Commissioner |
| Allegany     | 75,087     | Code         |
| Worcester    | 51,454     | Code         |
| Queen Anne's | 47,798     | Code         |
| Talbot       | 37,782     | Charter      |
| Caroline     | 33,066     | Code         |
| Dorchester   | 32,618     | Charter      |
| Garrett      | 30,097     | Commissioner |
| Somerset     | 26,470     | Commissioner |
| Kent         | 20,197     | Code         |

| COMMISSIONER   | CHARTER   |
|--|---|
| <p><b>Form of Government –</b><br/>Determined by the State through the General Assembly.</p>   | <p><b>Form of Government –</b><br/>Determined by a Charter - established and amended only by the county voters.</p>   |
| <p><b>Authority – limited –</b><br/>General Assembly retains the power to pass local laws for the County.</p> <p>Commissioners may enact ordinances &amp; act to carry out laws enacted by the General Assembly.</p> | <p><b>Authority – broad –</b><br/>County Council may enact, repeal or amend public local laws on matters covered by the Maryland Code.</p> <p>The County Council may enact ordinances &amp; act to carry out laws enacted by the General Assembly</p> |
| <p><b>Executive &amp; Legislative Functions –</b><br/>BOCC manages both functions as a committee with Commissioners having equal power..</p>   | <p><b>Executive &amp; Legislative Functions –</b><br/>A County Executive is responsible for the executive function &amp; the County Council for the legislative if set forth in the Charter and approved by the voters .</p>                          |

# COMMISSIONER & CHARTER FORMS OF GOVERNMENT

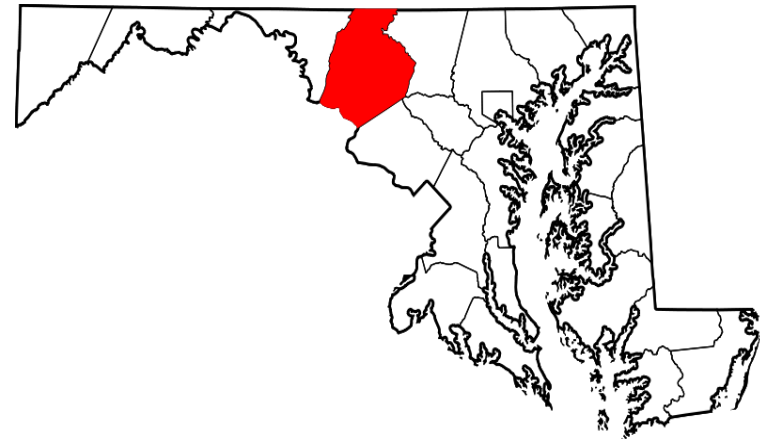
| COMMISSIONER   | CHARTER  |
|--|--|
| <b>Number of Commissioners –</b><br>Determined by the General Assembly   | <b>Number of County Council members –</b><br>Set forth in the Charter and approved by the voters.  |
| <b>Levying New Taxes –</b><br>General Assembly retains the power to levy new forms of tax.                               | <b>Levying New Taxes -</b><br>General Assembly retains the power to levy new forms of tax. County has some limited , increased authority to impose fees. |
| <b>Bonds –</b><br>Determined by the General Assembly (except for School bonding).  | <b>Bonds –</b><br>Determined by the voters as set in the Charter.  |
| <b>Civil fines/infractions –</b><br>Determined by the General Assembly.  | <b>Civil fines/infractions –</b><br>Determined by the County Council.  |
| <b>Referenda on laws –</b><br>None allowed for BOCC ordinances, for Gen Assembly local laws 10% of voters must petition. | <b>Referenda on laws –</b><br>Types of laws eligible are set forth in the Charter and approved by the voters .   |

# COMMISSIONER & CHARTER

## FORMS OF GOVERNMENT

# **WHAT ARE THE STEPS TO BECOME A CHARTER COUNTY?**

- 1. A CHARTER BOARD IS APPOINTED OR ELECTED.**
- 2. A CHARTER IS DRAFTED BY THE CHARTER BOARD.**
- 3. THE CHARTER IS PRESENTED TO THE VOTERS, IN A REGULAR OR SPECIAL ELECTION.**
- 4. THE VOTERS APPROVE THE CHARTER BY A SIMPLE MAJORITY.**



# Purpose

The Charter Board was authorized to create a charter for Frederick County to change the present form of government. The Charter Board used 17 months to draft a charter for submission to the Board of County Commissioners and then for a referendum election by the voters of Frederick County.

# **Frederick County Charter Board**

The Frederick Board of County Commissioners selected nine members for the Frederick County Charter Board along with three alternates on Thursday, March 10, 2011.

## **Nine Appointed Charter Board Members**

Fred Anderson, Joan Aquilino, Debra Borden, Dr. Tom Browning, Ken Coffey, Jeff Holtzinger, Mayor James Hoover, Bob Kresslein, Rocky Mackintosh

## **Alternate Members**

Doug Browning, Dana French, Earl Robbins



# WHAT IS A CHARTER?

- **A CHARTER IS SIMPLY A DOCUMENT THAT SPELS OUT THE AUTHORITY AND STRUCTURE OF A LOCAL GOVERNMENT.**
- **IT'S A MINI CONSTITUTION FOR THE COUNTY.**



# WHAT IS INCLUDED IN A CHARTER?

- 1. Authority and functions of elected officials.**
- 2. Elected and Appointed positions.**
- 3. Term limits for elected officials.**
- 4. District and at-large election of Council.**
- 5. Referendum procedures.**
- 6. Compensation amounts for elected officials.**
- 7. Budget process.**
- 8. Process for passing local laws.**



# Frederick County Charter Highlights

## Legislative Branch-The County Council

- County Council – 7 member body, 5 elected by district, 2 elected at large
- Council member qualifications – US citizen, a resident and registered voter of the county for at least 1 year prior to election
- Term of Council member – 4 year term, can serve no more than 3 consecutive terms
- Salary of Councilmember - \$22,500, until changed by ordinance
- Vacancies in County Council – filled by appointment within 45 days by the Council
- Council meetings – legislative sessions limited to 45 days per year. Council can meet in non-legislative sessions as needed.

# Frederick County Charter Highlights

## The Legislative Process

- Local legislation – bills can be introduced by any Council member. Each bill receives a public hearing with the hearing advertised in advance. After public hearing, the Council may enact a bill into law. If bill is amended and the amendment is substantive, the bill requires a new public hearing before it can be enacted into law.
- Legislative veto – Executive can approve or veto a bill within 10 days of its passage, otherwise the bill takes effect. If a bill is vetoed, the Council can override the veto with an affirmative vote of five members.
- Effective date of legislation – Most bills will take effect 60 calendar days after enactment.
- Referendum – Voters can petition most bills to a referendum where the voters decide whether a bill becomes law or not. The petition must be signed by 7 percent of the voters and submitted to the Council no later than 59 days after a bill is enacted.

# Frederick County Charter Highlights

## The Executive Branch-The County Executive

- County Executive – The Executive is the chief executive officer of the county who directs, supervises, and over sees the administration of all executive departments, agencies and offices
- Executive qualifications – US citizen, a resident and registered voter of the county for at least 2 years prior to election
- Term of Executive – 4 year term, can serve no more than 2 consecutive terms
- Salary of Executive - \$95,000 until changed by ordinance
- Vacancies in Office of Executive – filled by appointment within 45 days by the Council
- Plan of organization – Once each term, the Executive evaluates the structure and functions of the government and reports findings to the Council

# Frederick County Charter Highlights

## The Annual Budget Process

- Executive holds 2 public hearings during the preparation of the proposed budget
- Budget passage – After the proposed budget is submitted to the Council, the Council holds at least one public hearing on the document. The Council may reduce or delete items in the proposed budget but the Council may not add items to it or increase any proposed expenditure. Council adopts the budget by ordinance at the end of May each year or the proposed budget becomes law.
- Balanced budget - The budget is balanced so that proposed revenues equal proposed expenditures.

# Frederick County Charter Highlights

## The Charter Amendment Process

- Charter amendments – The amendment process is established under State law and requires the voters to approve and adopt any proposed amendment or proposed amendment fails.
- Charter review commission – The charter can be reviewed at any time, but the first scheduled review occurs in 2018 and at least every 10 years thereafter by a commission appointed by the Council.

# **Frederick County Charter Highlights**

## **Planning and Zoning/Land Use**

- Land use – The laws that have established the policies and procedures by which land use decisions have been made in the county will continue to control land decisions after the adoption of the charter until this requirement in the charter is amended by the voters.

## **The Transition Process from Commissioner to Charter Government**

- After the charter is approved in 2012, most provisions of the charter take effect on December 1, 2014, when the first County Executive and members of the first County Council take office following their election in November 2014.



# Frederick County Charter Transition

## *Charter Transition Team Meeting Bi-Weekly to Identify and Plan For:*

- Annotated Code of Maryland Revisions
- Frederick County Code & Public Local Laws Changes
- Frederick County Policies and Procedures Changes
- Frederick County Personnel Changes
- Reporting Authority Updates
- Physical Services Changes (Offices, Parking, etc.)
- Other Issues

# Frederick County Charter Transition - Template

## The Issue

In preparing for the transition to a County Charter form of Government on December 1, 2014, we are tasked with ensuring that the functions and roles of the executive and legislative functions continue to run smoothly, with no (*or little*) interruption from the onset. To that end, to aid in our review of our respective Divisions/Departments we need to focus on the following.

- **How** and for **What** do you interact with the Board of County Commissioners (BOCC) now? **and**,
- How would those interactions be with a County Executive (for executive functions) and a County Council (for legislative functions)?
- What is approved through an: Ordinance? Resolution? Regulation?
- **When** are the changes needed (*prior to the transition, 1<sup>st</sup> order of business, or can wait*)?
- Keep in mind the goal is not to assess every daily interaction, policy, procedure or program, as those usually don't require some official action, rather focus initially on the interactions that cause an issue to go through or be decided by the BOCC.

# Frederick County Charter Transition - Template

## General Assessment

### Review of County Code (Part I of Code)

- Is there text within the County Code needing change to reflect either the County Executive or County Council...*or neither*...in place of the 'Board of County Commissioners'?
- Does the Charter itself create new or different procedures that would override or make the code provision/procedure not applicable?

### Review of Code of Public Local Laws (Part II of Code)

- Is there text within the County Code needing change to reflect either the County Executive or County Council...*or neither*...in place of the 'Board of County Commissioners'?
- Does the Charter itself create new or different procedures that would override or make the code provision/procedure not applicable?

### Review of Policy /Procedures

- Procurements and Bids (likely settled countywide)
- Review of any P&P that involve the BOCC

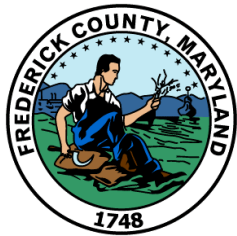
### Miscellaneous

- Staff Reporting Policies (i.e. request for information, special assignments, etc...)



# Charter Government and Transition

What it means to you and to Frederick  
County  
Questions



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